

tically significant increases (and decreases, in the case of pH) over initial background.

(c)(1) If the comparisons for the *up-gradient* wells made under paragraph (b) of this section show a significant increase (or pH decrease), the owner or operator must submit this information in accordance with § 265.94(a)(2)(ii).

(2) If the comparisons for *down-gradient* wells made under paragraph (b) of this section show a significant increase (or pH decrease), the owner or operator must then immediately obtain additional ground-water samples from those downgradient wells where a significant difference was detected, split the samples in two, and obtain analyses of all additional samples to determine whether the significant difference was a result of laboratory error.

(d)(1) If the analyses performed under paragraph (c)(2) of this section confirm the significant increase (or pH decrease), the owner or operator must provide written notice to the Regional Administrator—within seven days of the date of such confirmation—that the facility may be affecting ground-water quality.

(2) Within 15 days after the notification under paragraph (d)(1) of this section, the owner or operator must develop and submit to the Regional Administrator a specific plan, based on the outline required under paragraph (a) of this section and certified by a qualified geologist or geotechnical engineer, for a ground-water quality assessment program at the facility.

(3) The plan to be submitted under § 265.90(d)(1) or paragraph (d)(2) of this section must specify:

(i) The number, location, and depth of wells;

(ii) Sampling and analytical methods for those hazardous wastes or hazardous waste constituents in the facility;

(iii) Evaluation procedures, including any use of previously-gathered ground-water quality information; and

(iv) A schedule of implementation.

(4) The owner or operator must implement the ground-water quality assessment plan which satisfies the requirements of paragraph (d)(3) of this section, and, at a minimum, determine:

(i) The rate and extent of migration of the hazardous waste or hazardous waste constituents in the ground water; and

(ii) The concentrations of the hazardous waste or hazardous waste constituents in the ground water.

(5) The owner or operator must make his first determination under paragraph (d)(4) of this section as soon as technically feasible, and, within 15 days after that determination, submit to the Regional Administrator a written report containing an assessment of the ground-water quality.

(6) If the owner or operator determines, based on the results of the first determination under paragraph (d)(4) of this section, that no hazardous waste or hazardous waste constituents from the facility have entered the ground water, then he may reinstate the indicator evaluation program described in § 265.92 and paragraph (b) of this section. If the owner or operator reinstates the indicator evaluation program, he must so notify the Regional Administrator in the report submitted under paragraph (d)(5) of this section.

(7) If the owner or operator determines, based on the first determination under paragraph (d)(4) of this section, that hazardous waste or hazardous waste constituents from the facility have entered the ground water, then he:

(i) Must continue to make the determinations required under paragraph (d)(4) of this section on a quarterly basis until final closure of the facility, if the ground-water quality assessment plan was implemented prior to final closure of the facility; or

(ii) May cease to make the determinations required under paragraph (d)(4) of this section, if the ground-water quality assessment plan was implemented during the post-closure care period.

(e) Notwithstanding any other provision of this subpart, any ground-water quality assessment to satisfy the requirements of § 265.93(d)(4) which is initiated prior to final closure of the facility must be completed and reported in accordance with § 265.93(d)(5).

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(f) Unless the ground water is monitored to satisfy the requirements of § 265.93(d)(4), at least annually the owner or operator must evaluate the data on ground-water surface elevations obtained under § 265.92(e) to determine whether the requirements under § 265.91(a) for locating the monitoring wells continues to be satisfied. If the evaluation shows that § 265.91(a) is no longer satisfied, the owner or operator must immediately modify the number, location, or depth of the monitoring wells to bring the ground-water monitoring system into compliance with this requirement.

Approved by the Office of Management and Budget under control number 2050-0033)

[45 FR 33232, May 19, 1980, as amended at 50 FR 4514, Jan. 31, 1985]

### § 265.94 Recordkeeping and reporting.

(a) Unless the ground water is monitored to satisfy the requirements of § 265.93(d)(4), the owner or operator must:

(1) Keep records of the analyses required in § 265.92(c) and (d), the associated ground-water surface elevations required in § 265.92(e), and the evaluations required in § 265.93(b) throughout the active life of the facility, and, for disposal facilities, throughout the post-closure care period as well; and

(2) Report the following ground-water monitoring information to the Regional Administrator:

(i) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters listed in § 265.92(b)(1) for each ground-water monitoring well within 15 days after completing each quarterly analysis. The owner or operator must separately identify for each monitoring well any parameters whose concentration or value has been found to exceed the maximum contaminant levels listed in Appendix III.

(ii) Annually: Concentrations or values of the parameters listed in § 265.92(b)(3) for each ground-water monitoring well, along with the required evaluations for these parameters under § 265.93(b). The owner or operator must separately identify any significant differences from initial

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background found in the upgradient wells, in accordance with § 265.93(c)(1). During the active life of the facility, this information must be submitted no later than March 1 following each calendar year.

(iii) No later than March 1 following each calendar year: Results of the evaluations of ground-water surface elevations under § 265.93(f), and a description of the response to that evaluation, where applicable.

(b) If the ground water is monitored to satisfy the requirements of § 265.93(d)(4), the owner or operator must:

(1) Keep records of the analyses and evaluations specified in the plan, which satisfies the requirements of § 265.93(d)(3), throughout the active life of the facility, and, for disposal facilities, throughout the post-closure care period as well; and

(2) Annually, until final closure of the facility, submit to the Regional Administrator a report containing the results of his or her ground-water quality assessment program which includes, but is not limited to, the calculated (or measured) rate of migration of hazardous waste or hazardous waste constituents in the ground water during the reporting period. This information must be submitted no later than March 1 following each calendar year.

(Approved by the Office of Management and Budget under control number 2050-0033)

[45 FR 33232, May 19, 1980, as amended at 48 FR 3982, Jan. 28, 1983; 50 FR 4514, Jan. 31, 1985]

### Subpart G—Closure and Post-Closure

SOURCE: 51 FR 16451, May 2, 1986, unless otherwise noted.

#### § 265.110 Applicability.

Except as § 265.1 provides otherwise: (a) Sections 265.111 through 265.115 (which concern closure) apply to the owners and operators of all hazardous waste management facilities; and

(b) Sections 265.116 through 265.120 (which concern post-closure care) apply to the owners and operators of:

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(1) All hazardous waste disposal facilities; and  
(2) Tank systems that are required under § 265.197 to meet requirements for landfills.

[51 FR 16451, May 2, 1986, as amended at 51 FR 25479, July 14, 1986]

### § 265.111 Closure performance standard.

The owner or operator must close the facility in a manner that:

(a) Minimizes the need for further maintenance, and

(b) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere, and

(c) Complies with the closure requirements of this subpart including, but not limited to, the requirements of §§ 265.197, 265.228, 265.258, 265.280, 265.310, 265.351, 265.381 and 265.404.

### § 265.112 Closure plan; amendment of plan.

(a) *Written plan.* By May 19, 1981, the owner or operator of a hazardous waste management facility must have a written closure plan. Until final closure is completed and certified in accordance with § 265.115, a copy of the most current plan must be furnished to the Regional Administrator upon request, including request by mail. In addition, for facilities without approved plans, it must also be provided during site inspections, on the day of inspection, to any officer, employee or representative of the Agency who is duly designated by the Administrator.

(b) *Content of plan.* The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include, at least:

(1) A description of how each hazardous waste management unit at the facility will be closed in accordance with § 265.111; and

(2) A description of how final closure of the facility will be conducted in accordance with § 265.111. The description must identify the maximum

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extent of the operation which will be unclosed during the active life of the facility; and

(3) An estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility and a detailed description of the methods to be used during partial and final closure, including, but not limited to, methods for removing, transporting, treating, storing or disposing of all hazardous waste, identification of and the type(s) of off-site hazardous waste management unit(s) to be used, if applicable; and

(4) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to satisfy the closure performance standard; and

(5) A detailed description of other activities necessary during the partial and final closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground-water monitoring, leachate collection, and run-on and run-off control; and

(6) A schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all hazardous waste inventory and of the time required to place a final cover must be included.); and

(7) An estimate of the expected year of final closure for facilities that use trust funds to demonstrate financial assurance under § 265.143 or § 265.144 and whose remaining operating life is

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less than twenty years, and for facilities without approved closure plans.

(c) *Amendment of plan.* The owner or operator may amend the closure plan at any time prior to the notification of partial or final closure of the facility. An owner or operator with an approved closure plan must submit a written request to the Regional Administrator to authorize a change to the approved closure plan. The written request must include a copy of the amended closure plan for approval by the Regional Administrator.

(1) The owner or operator must amend the closure plan whenever:

(i) Changes in operating plans or facility design affect the closure plan, or

(ii) There is a change in the expected year of closure, if applicable, or

(iii) In conducting partial or final closure activities, unexpected events require a modification of the closure plan.

(2) The owner or operator must amend the closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must amend the closure plan no later than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intend to remove all hazardous wastes at closure, but are required to close as landfills in accordance with § 265.310.

(3) An owner or operator with an approved closure plan must submit the modified plan to the Regional Administrator at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event has occurred during the partial or final closure period, the owner or operator must submit the modified plan no more than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intend to remove all hazardous wastes at closure but are required to close as

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landfills in accordance with § 265.310. If the amendment to the plan is a major modification according to the criteria in § 270.41 and § 270.42, the modification to the plan will be approved according to the procedures in § 265.112(d)(4).

(4) The Regional Administrator may request modifications to the plan under the conditions described in paragraph (c)(1) of this section. An owner or operator with an approved closure plan must submit the modified plan within 60 days of the request from the Regional Administrator, or within 30 days if the unexpected event occurs during partial or final closure. If the amendment is considered a major modification according to the criteria in §§ 270.41 and 270.42, the modification to the plan will be approved in accordance with the procedures in § 265.112(d)(4).

(d) *Notification of partial closure and final closure.* (1) The owner or operator must submit the closure plan to the Regional Administrator at least 180 days prior to the date on which he expects to begin closure of the first surface impoundment, waste pile, land treatment, or landfill unit, or final closure if it involves such a unit, whichever is earlier. The owner or operator must submit the closure plan to the Regional Administrator at least 45 days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units. Owners or operators with approved closure plans must notify the Regional Administrator in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit. Owners and operators with approved closure plans must notify the Regional Administrator in writing at least 45 days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units.

(2) The date when he "expects to begin closure" must be either within 30 days after the date on which any hazardous waste management unit receives the known final volume of haz-

ardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit can demonstrate to the Regional Administrator that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all interim status requirements, the Regional Administrator may approve an extension to this one-year limit.

(3) The owner or operator must submit his closure plan to the Regional Administrator no later than 15 days after:

(i) Termination of interim status except when a permit is issued simultaneously with termination of interim status; or

(ii) Issuance of a judicial decree or final order under section 3008 of RCRA to cease receiving hazardous wastes or close.

(4) The Regional Administrator will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications to the plan no later than 30 days from the date of the notice. He will also, in response to a request or at his own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The Regional Administrator will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.) The Regional Administrator will approve, modify, or disapprove the plan within 90 days of its receipt. If the Regional Administrator does not approve the plan he shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator must modify

the plan or submit a new plan for approval within 30 days after receiving such written statement. The Regional Administrator will approve or modify this plan in writing within 60 days. If the Regional Administrator modifies the plan, this modified plan becomes the approved closure plan. The Regional Administrator must assure that the approved plan is consistent with §§ 265.111 through 265.115 and the applicable requirements of §§ 265.90 *et seq.*, 265.197, 265.228, 265.258, 265.280, 265.310, 265.351, 265.381, and 265.404. A copy of the modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

(e) *Removal of wastes and decontamination or dismantling of equipment.* Nothing in this section shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

§ 265.113 Closure; time allowed for closure.

(a) Within 90 days after receiving the final volume of hazardous wastes at a hazardous waste management unit or facility, or within 90 days after approval of the closure plan, whichever is later, the owner or operator must treat, remove from the unit or facility, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan. The Regional Administrator may approve a longer period if the owner or operator demonstrates that:

(1)(i) The activities required to comply with this paragraph will, of necessity, take longer than 90 days to complete; or

(ii)(A) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes; and

(B) There is a reasonable likelihood that he or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

(C) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable interim status requirements.

(b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes at the hazardous waste management unit or facility, or 180 days after approval of the closure plan, if that is later. The Regional Administrator may approve an extension to the closure period if the owner or operator demonstrates that:

(1)(i) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

(ii)(A) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes; and

(B) There is reasonable likelihood that he or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

(C) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable interim status requirements.

(c) The demonstrations referred to in § 265.113(a) and (b) must be made as follows: (1) The demonstrations in paragraph (a) must be made at least 30 days prior to the expiration of the 90-day period in paragraph (a); and (2) the demonstrations in paragraph (b) must be made at least 30 days prior to the expiration of the 180-day period in paragraph (b).

§ 265.114 Disposal or decontamination of equipment, structures and soils.

During the partial and final closure periods, all contaminated equipment, structures and soil must be properly disposed of, or decontaminated unless specified otherwise in §§ 265.228, 265.258, 265.280, or 265.310. By removing all hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that hazardous waste in accordance with all applicable requirements of Part 262 of this chapter.

§ 265.115 Certification of closure.

Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of completion of final closure, the owner or operator must submit to the Regional Administrator, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Regional Administrator upon request until he releases the owner or operator from the financial assurance requirements for closure under § 265.143(h).

§ 265.116 Survey plat.

No later than the submission of the certification of closure of each hazardous waste disposal unit, an owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Regional Administrator, a survey plat indicating the location and dimensions of landfill cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land

use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable Subpart G regulations.

**§ 265.117 Post-closure care and use of property.**

(a)(1) Post-closure care for each hazardous waste management unit subject to the requirements of §§ 265.117 through 265.120 must begin after completion of closure of the unit and continue for 30 years after that date. It must consist of at least the following:

(i) Monitoring and reporting in accordance with the requirements of Subparts F, K, L, M, and N of this part; and

(ii) Maintenance and monitoring of waste containment systems in accordance with the requirements of Subparts F, K, L, M, and N of this part.

(2) Any time preceding closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular hazardous waste disposal unit, the Regional Administrator may:

(i) Shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if he finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground-water monitoring results, characteristics of the hazardous waste, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the hazardous waste management unit or facility is secure); or

(ii) Extend the post-closure care period applicable to the hazardous waste management unit or facility, if he finds that the extended period is necessary to protect human health and the environment (e.g., leachate or ground-water monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

(b) The Regional Administrator may require, at partial and final closure, continuation of any of the security re-

quirements of § 265.14 during part or all of the post-closure period when:

(1) Hazardous wastes may remain exposed after completion of partial or final closure; or

(2) Access by the public or domestic livestock may pose a hazard to human health.

(c) Post-closure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the facility's monitoring systems, unless the Regional Administrator finds that the disturbance:

(1) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(2) Is necessary to reduce a threat to human health or the environment.

(d) All post-closure care activities must be in accordance with the provisions of the approved post-closure plan as specified in § 265.118.

**§ 265.118 Post-closure plan; amendment of plan.**

(a) *Written plan.* By May 19, 1981, the owner or operator of a hazardous waste disposal unit must have a written post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure must prepare a post-closure plan and submit it to the Regional Administrator within 90 days of the date that the owner or operator or Regional Administrator determines that the hazardous waste management unit or facility must be closed as a landfill, subject to the requirements of §§ 265.117 through 265.120.

(b) Until final closure of the facility, a copy of the most current post-closure plan must be furnished to the Regional Administrator upon request, including request by mail. In addition, for facilities without approved post-closure plans, it must also be provided during site inspections, on the day of inspection, to any officer, employee or representative of the Agency who is duly designated by the Administrator.

After final closure has been certified, the person or office specified in § 265.118(c)(3) must keep the approved post-closure plan during the post-closure period.

(c) For each hazardous waste management unit subject to the requirements of this section, the post-closure plan must identify the activities that will be carried on after closure of each disposal unit and the frequency of these activities, and include at least:

(1) A description of the planned monitoring activities and frequencies at which they will be performed to comply with Subparts F, K, L, M, and N of this part during the post-closure care period; and

(2) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

(i) The integrity of the cap and final cover or other containment systems in accordance with the requirements of Subparts K, L, M, and N of this part; and

(ii) The function of the monitoring equipment in accordance with the requirements of Subparts F, K, L, M, and N of this part; and

(3) The name, address, and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the post-closure care period.

(d) *Amendment of plan.* The owner or operator may amend the post-closure plan any time during the active life of the facility or during the post-closure care period. An owner or operator with an approved post-closure plan must submit a written request to the Regional Administrator to authorize a change to the approved plan. The written request must include a copy of the amended post-closure plan for approval by the Regional Administrator.

(1) The owner or operator must amend the post-closure plan whenever:

(i) Changes in operating plans or facility design affect the post-closure plan, or

(ii) Events which occur during the active life of the facility, including partial and final closures, affect the post-closure plan.

(2) The owner or operator must amend the post-closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the post-closure plan.

(3) An owner or operator with an approved post-closure plan must submit the modified plan to the Regional Administrator at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the post-closure plan. If an owner or operator of a surface impoundment or a waste pile who intended to remove all hazardous wastes at closure in accordance with § 265.228(b) or § 265.258(a) is required to close as a landfill in accordance with § 265.310, the owner or operator must submit a post-closure plan within 90 days of the determination by the owner or operator or Regional Administrator that the unit must be closed as a landfill. If the amendment to the post-closure plan is a major modification according to the criteria in §§ 270.41 and 270.42, the modification to the plan will be approved according to the procedures in § 265.118(f).

(4) The Regional Administrator may request modifications to the plan under the conditions described in paragraph (d)(1) of this section. An owner or operator with an approved post-closure plan must submit the modified plan no later than 60 days of the request from the Regional Administrator. If the amendment to the plan is considered a major modification according to the criteria in §§ 270.41 and 270.42, the modifications to the post-closure plan will be approved in accordance with the procedures in § 265.118(f). If the Regional Administrator determines that an owner or operator of a surface impoundment or waste pile who intended to remove all hazardous wastes at closure must close the facility as a landfill, the owner or operator must submit a post-closure plan for approval to the Regional Administrator within 90 days of the determination.

(e) The owner or operator of a facility with hazardous waste management units subject to these requirements

(a) At least 90 percent full when placed in the landfill; or

(b) Crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

[50 FR 16048, Apr. 23, 1985]

**§ 265.316 Disposal of small containers of hazardous waste in overpacked drums (lab packs).**

Small containers of hazardous waste in overpacked drums (lab packs) may be placed in a landfill if the following requirements are met:

(a) Hazardous waste must be packaged in non-leaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the waste held therein. Inside containers must be tightly and securely sealed. The inside containers must be of the size and type specified in the Department of Transportation (DOT) hazardous materials regulations (49 CFR Parts 173, 178 and 179), if those regulations specify a particular inside container for the waste.

(b) The inside containers must be overpacked in an open head DOT-specification metal shipping container (49 CFR Parts 178 and 179) of no more than 416-liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of absorbent material to completely absorb all of the liquid contents of the inside containers. The metal outer container must be full after packing with inside containers and absorbent material.

(c) The absorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers, in accordance with § 265.17(b).

(d) Incompatible wastes, as defined in § 260.10(a) of this chapter, must not be placed in the same outside container.

(e) Reactive waste, other than cyanide- or sulfide-bearing waste as defined in § 261.23(a)(5) of this chapter, must be treated or rendered non-reactive prior to packaging in accordance with paragraphs (a) through (d) of this section. Cyanide- and sulfide-bearing

reactive waste may be packaged in accordance with paragraphs (a) through (d) of this section without first being treated or rendered non-reactive.

[46 FR 56596, Nov. 17, 1981]

**Subpart O—Incinerators**

SOURCE: 46 FR 7680, Jan. 23, 1981, unless otherwise noted.

**§ 265.340 Applicability.**

(a) The regulations in this subpart apply to owners or operators of facilities that incinerate hazardous waste, except as § 264.1 provides otherwise. The following facility owners or operators are considered to incinerate hazardous waste:

(1) Owners or operators of hazardous waste incinerators (as defined in § 260.10 of this chapter); and

(2) Owners or operators who burn hazardous waste in boilers or in industrial furnaces in order to destroy them, or who burn hazardous waste in boilers or in industrial furnaces for any recycling purpose and elect to be regulated under this subpart.

(b) Owners and operators of incinerators burning hazardous waste are exempt from all of the requirements of this subpart, except § 265.351 (Closure), provided that the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain any of the hazardous constituents listed in Part 261, Appendix VIII, of this chapter, and such documentation is retained at the facility, if the waste to be burned is:

(1) Listed as a hazardous waste in Part 261, Subpart D, of this chapter solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both; or

(2) Listed as a hazardous waste in Part 261, Subpart D, of this chapter solely because it is reactive (Hazard Code R) for characteristics other than those listed in § 261.23(a) (4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone; or

(3) A hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as deter-

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mined by the tests for characteristics of hazardous wastes under Part 261, Subpart C, of this chapter; or

(4) A hazardous waste solely because it possesses the reactivity characteristics described by § 261.23(a) (1), (2), (3), (6), (7), or (8) of this chapter, and will not be burned when other hazardous wastes are present in the combustion zone.

[47 FR 27533, June 24, 1982 and 50 FR 666, Jan. 4, 1985, as amended at 50 FR 49203, Nov. 29, 1985]

**§ 265.341 Waste analysis.**

In addition to the waste analyses required by § 265.13, the owner or operator must sufficiently analyze any waste which he has not previously burned in his incinerator to enable him to establish steady state (normal) operating conditions (including waste and auxiliary fuel feed and air flow) and to determine the type of pollutants which might be emitted. At a minimum, the analysis must determine:

- (a) Heating value of the waste;
- (b) Halogen content and sulfur content in the waste; and
- (c) Concentrations in the waste of lead and mercury, unless the owner or operator has written, documented data that show that the element is not present.

[Comment: As required by § 265.73, the owner or operator must place the results from each waste analysis, or the documented information, in the operating record of the facility.]

**§ 265.342—265.344 [Reserved]**

**§ 265.345 General operating requirements.**

During start-up and shut-down of an incinerator, the owner or operator must not feed hazardous waste unless the incinerator is at steady state (normal) conditions of operation, including steady state operating temperature and air flow.

**§ 265.346 [Reserved]**

**§ 265.347 Monitoring and inspections.**

The owner or operator must conduct, as a minimum, the following monitoring and inspections when incinerating hazardous waste:

(a) Existing instruments which relate to combustion and emission control must be monitored at least every 15 minutes. Appropriate corrections to maintain steady state combustion conditions must be made immediately either automatically or by the operator. Instruments which relate to combustion and emission control would normally include those measuring waste feed, auxiliary fuel feed, air flow, incinerator temperature, scrubber flow, scrubber pH, and relevant level controls.

(b) The complete incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be inspected at least daily for leaks, spills, and fugitive emissions, and all emergency shutdown controls and system alarms must be checked to assure proper operation.

[46 FR 7678, Jan. 23, 1981, as amended at 47 FR 27533, June 24, 1982]

**§ 265.348—265.350 [Reserved]**

**§ 265.351 Closure.**

At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including but not limited to ash, scrubber waters, and scrubber sludges) from the incinerator.

[Comment: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with § 261.3(d) of this chapter, that the residue removed from his incinerator is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of Parts 262 through 266 of this chapter.]

**§ 265.352 Interim status incinerators burning particular hazardous wastes.**

(a) Owners or operators of incinerators subject to this subpart may burn EPA Hazardous Wastes FO20, FO21, FO22, FO23, FO26, or FO27 if they receive a certification from the Assistant Administrator for Solid Waste and Emergency Response that they can meet the performance standards of Subpart O of Part 264 when they burn these wastes.